IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1572 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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RABARI MOHANBHAI HARIBHAI

Versus

RABARI KHENGARBHAI MADHABHAI

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Appearance:

MR MEHUL H RATHOD for Petitioner No. 1-3

MR GK POPAT for Respondent No. 1

MR SHAKEEL A QURESHI for Respondent No. 1,2

RULE SERVED for Respondent No. 3

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CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 18/09/2002

ORAL JUDGEMENT

Heard Mr. Mehul Rathod, ld. advocate for the applicant-revisionists and Mr. Shakeel A. Qureshi, ld. advocate for the respondents.

2. The present Civil Revision Application is filed against the order passed by the ld. Extra Assistant

Judge, Banaskantha at Palanpur in Civil Misc. Appeal No. 108 of 1999 on 20th September 1999 whereby the order passed below Exhs. 5 and 67 in Regular Civil Suit No. 102/98 dated 4.9.1999 by the ld. Civil Judge (JD), Deesa, was confirmed. Since the impugned order is an interlocutory order, the present Civil Revision Application is not maintainable, considering the amendment made in Sec. 115 of the Civil Procedure Code. Mr. Rathod, ld. advocate appearing for the applicant therefore seeks permission to withdraw the present Civil Revision Application so as to enable his clients to file a Special Civil Application under Art. 227 of the Constitution of India. Permission as prayed for is granted. The interim relief granted by this Court would continue for a period of two weeks from today.

3. It is also open for the applicants to request the ld. trial Judge for early disposal of the suit. If such an application is made before the trial court for early disposal of the suit the trial court shall consider the same and decide it in accordance with law considering the issues involved in the suit.

4. With the above observations, the present Civil Revision Application is disposed of as having been withdrawn. Rule is discharged.

5. Mr. Shakeel Qureshi has objected to the permission being granted to the ld. advocate for the applicants for withdrawal of the present Civil Revision Application with a liberty to file Special Civil Appln. under Art. 227 of the Constitution. However, as this Court has taken the view that since the C.R.A. is not maintainable, this Court has not gone into the merits of the matter. It is always open for the applicants to adopt other alternative remedy, and in this view of the matter, the objection raised by Mr. Qureshi is not accepted.

rmr. [ K.A. Puj, J. ]